

City Planning Commission Meeting
Tuesday, February 24, 2015

CPC Deadline: 04/10/15
CC Deadline: 05/12/15
Council District: B - Cantrell

PRELIMINARY STAFF REPORT

To: City Planning Commission
Zoning Docket: 022/15

Prepared By: Dubravka Glilic
Date: February 10, 2015

I. GENERAL INFORMATION

Applicant: LaMagazine Property LLC

Request: This is a request for a Conditional Use to permit a retail store over 5,000 square feet in floor area in a B-1A Neighborhood Business District.

Location: The petitioned property is located on Square 218, Lot 1-A, in the Sixth Municipal District, bounded by Louisiana Avenue, Magazine, Camp and Delachaise Streets. The municipal address is 1116 Louisiana Avenue. The site is located within the Garden District Local Historic District.

Description: The petitioned property is located on a lot measuring one hundred twenty eight (128) feet in width (along Magazine Street) by one hundred fifty seven (157) feet in depth (along Louisiana Avenue), with a total area of 20,096 square feet. A 9,165 square foot masonry commercial structure and an accessory parking lot with twenty-five (25) parking spaces, including two (2) handicapped spaces, are currently located on site. The structure originally housed a single tenant (Eckerd drugstore) and was subsequently divided into four (4) commercial tenant spaces which contained a video rental store, a clothing store, and two fast food restaurants. The structure is currently vacant. The original Conditional Use approved under ZD 37/96 (Ordinance 17,553) was rescinded with a subsequent Ordinance 23,268, ZD 133/07 authorizing the fast food restaurant on the site. This Conditional Use application is intended to re-authorize a single retail tenant, a CVS Pharmacy, within the entire structure.

Why is City Planning Commission action required?

The B-1A District allows a variety of businesses (including retail stores) by right, provided that they are no greater than 5,000 square feet in floor area. Permitted uses which exceed this maximum are conditional uses, in accordance with **Article 5, Section 5.5.5. Conditional Uses** of the Comprehensive Zoning Ordinance. In this particular case, since the existing building has a floor area of 9,120 square feet, which was most recently divided among four commercial tenants, the use of the property by a single tenant must be considered as a conditional use.

Article 16, Section 16.6.4 of the Comprehensive Zoning Ordinance requires the City Planning Commission to make a recommendation on all Conditional Use requests prior to City Council action.

II. ANALYSIS

A. What is the zoning of the surrounding areas? What is the existing land use and how are the surrounding areas used?

The subject property is located in the middle of an approximately linear B-1A Neighborhood Business District generally covering all properties with frontage on both sides of Magazine Street between Washington and Napoleon Avenues. This District is predominantly occupied by two-story, wood-frame and masonry commercial and mixed-use structures built to the Magazine Street property line. The area immediately surrounding the subject site is developed with a wide variety of uses, including apparel retail outlets, novelty stores, antique shops, general and professional offices, personal services, coffee shops, restaurants, banks, multiple-family housing, cocktail lounges, convenience and grocery stores.

A large RD-2 Two-Family Residential District is located directly to the rear of the site, and extends for several blocks toward the lake and in both the upriver and downriver directions. It is predominantly occupied by a mixture of single- and two-story, wood-frame, single-, two- and multiple-family dwellings. This District covers the majority of the property in the Garden District neighborhood, which is characterized by a preponderance of historic shotgun and Center-Hall style residential structures, and is designated as a local historic district.¹

A small C-1A General Commercial District is located one block downriver from the site and contains a grocery store with a parking lot. On the block of Magazine Street bounded by Aline and Delachaise Streets, approximately one block to the upriver side of the subject site, is an assisted living facility with an Residential Planned Facility (RPC) overlay zoning designation.

The vast majority of structures along Magazine Street in the vicinity of the site do not have off-street parking spaces.

B. How has the property been used and how has it been zoned historically?

Zoning History:

1929 – “F” Commercial District
1953 – “F” Heavy Commercial District
1970 – B-2 Neighborhood Business District
Current Zoning – B-1A Neighborhood Business District

¹ The Garden District Local Historic District is a partial-control district. While the HDLC does have jurisdiction over new construction and demolitions, the renovations as the one proposed in the current request) are not within the purview of the HDLC.

Land Use:

1929 – Public and semi-public
1949 – Light industrial
1999 – Single- and two-family residential²

C. Have there been any recent zoning changes or conditional uses in the area? If so, do these changes indicate any particular pattern or trend?

There have been the following zoning actions within five blocks of the subject site in the past five years:

Zoning Docket 064/13 was a request to amend Conditional Use Ordinance No. 11,244 M.C.S. (ZD 032-86), which permitted a retail development in excess of 5,000 square feet, to permit the further expansion of the existing retail development, in a B-1A Neighborhood Business District. The municipal addresses are 2929-37 Magazine Street. The City Planning Commission recommended approval of the request, which was subsequently approved by the City Council. *This site is located approximately five (5) blocks from the subject site.*

Zoning Docket 090/12 was a request for a Conditional Use to permit the sale of alcoholic beverages for consumption on-premises at a standard restaurant in a B-1A Neighborhood Business District. The municipal address is 3336 Magazine Street. The City Planning Commission recommended approval of the request, which was subsequently approved by the City Council. *This site is located approximately a half (1/2) block from the subject site.*

Zoning Docket 41/11 was a request for a Conditional Use to permit the sale of alcoholic beverages for consumption on-premises at a standard restaurant in a B-1A Neighborhood Business District. The municipal address is 3121-23 Magazine Street. The City Planning Commission recommended approval of the request, which was subsequently approved by the City Council. *This site is located approximately two (2) blocks from the subject site.*

Zoning Docket 101/10 was a request for a Conditional Use to permit the sale of alcoholic beverages for consumption on-premises at a standard restaurant in a B-1A Neighborhood Business District. The municipal address is 3100 Magazine Street. The City Planning Commission recommended approval of the request, which was subsequently approved by the City Council. *This site is located approximately two (2) blocks from the subject site.*

Zoning Docket 18/10 was a request for a Conditional Use to permit a cocktail lounge in a B-1A Neighborhood Business District. The municipal address is 3641 Magazine Street. The City Planning Commission recommended approval of

² The 1999 Land Use Plan identifies uses only at the square level, not by individual lot. Staff believes this land use designation to be inaccurate, as the video rental commercial use was already operating by 1999.

the request, which was subsequently approved by the City Council. *This site is located approximately three (3) blocks from the subject site.*

Zoning Docket 018/09 was a request for a conditional use to permit the sale of alcoholic beverages for consumption on-premises at a standard restaurant in a B-1A Neighborhood Business District. The municipal addresses are 3120 through 3128 Magazine Street and 1031 Ninth Street. The City Planning Commission recommended approval of the request, which was subsequently approved by the City Council. *This site is located approximately three (3) blocks from the subject site.*

These actions show a strong demand by applicants for the sale of alcoholic beverages within standard restaurants along this stretch of Magazine Street.

Zoning Docket 133/07 was a request for a Map Change from an RD-2 Two Family Residential District for lot H and an Amendment to Ordinance No. 17,553 MCS (ZD 37/96, a Conditional Use to permit a video rental store) to permit a fast food restaurant (Subway) in an existing structure in a B-1A Neighborhood Business District. The municipal address is 1116 Louisiana Avenue. It was recommended for approval by the City Planning Commission and subsequently approved by the City Council. *This is the subject site.*

Zoning Docket 037/96 was a Conditional Use request to permit the operation of a video rental store in a B-1A Neighborhood Business District and an RD-2 Two-Family Residential District. The municipal address is 1116 Louisiana Avenue. It was recommended for approval by the City Planning Commission and subsequently approved by the City Council. *This is the subject site.*

D. What are the comments from the design review staff?

Building

The applicant proposes to renovate an existing commercial structure located at the intersection of Louisiana Avenue and Magazine Street and convert it into a single tenant building, for a CVS Pharmacy. The single story, 9,165 square feet brick structure was originally developed for a single tenant (Eckerd drugstore) but was later divided into four smaller spaces, used by a video rental store, a clothing store and a fast food restaurant. The structure sits at the Magazine Street property line and is setback approximately sixty-eight (68) feet from the Louisiana Avenue property line. The applicant is proposing comprehensive modifications to the exterior of the building which include a new roof/parapet line, a new stucco façade, new doors and windows, canopies, attached lighting and other minor architectural detailing. There is no drive-thru component in the proposed reuse of the site.

Because the structure appears to be located at the Magazine Street property line, any canopy attached to that side of the building will require approval to use air rights above the public right-of-way. The proposed canopies have supporting metal brackets that are out of character with the rest of the building style and should be simplified. Therefore, the staff recommends the following provisos:

- The applicant shall secure the appropriate rights to utilize City property in connection with any encroachments in accordance with the requirements of the Department of Property Management, Office of Real Estate and Records.
- The applicant shall revise the canopy design to use simplified canopy supporting brackets.

Site Plan

The main elements of the site plan will remain unchanged: the egress/ingress points from Louisiana Avenue and Magazine Street will remain unchanged, and off-street parking for twenty-five (25) cars will continue to occupy the area in front of the building. There will be however some minor changes to the site plan. A dumpster will be moved from its current north-east corner location and replaced with bicycle racks. The dumpster will be placed in front of the structure, across from the Louisiana Avenue entrance to the site. It will be enclosed, but no details are provided in respect to the fencing material and height. Regarding the dumpster area and the potential problems with litter on the site, the staff recommends following provisos:

- A note on the plan shall indicate a six (6) foot high opaque (wood or brick) fence with locking gates around the perimeter of the dumpster area.
- The applicant shall provide to the City Planning Commission staff a letter outlining a litter abatement program, approved by the Department of Sanitation, inclusive of the location of refuse storage out of the public right-of-way, the frequency of trash pickup, the clearing of all litter from the adjacent rights-of-way, and the periodic cleaning of the adjacent street rights-of-way, as necessary. The name and phone number of the owner/operator of the establishment shall be kept on file in case of any violation.

One small loading zone is proposed next to the dumpster area. Because of its size, a waiver of the required loading space is required (see discussion in Section E of this report). The staff is also recommending relocation of bicycle racks closer to the building entrances (see discussion in Section E of this report).

Landscaping and Screening

The existing parking lot is currently screened from view from the Louisiana Avenue public right-of-way by a continuous evergreen hedge that will remain in place in the new proposal. There are also existing trees within the Magazine Street and Louisiana Avenue rights-of-way along the petitioned site that will remain. One tree, closest to the Magazine Street side entrance to the site has been removed and should be reinstalled. The applicant is proposing to add additional landscaping along the Camp Street side property line, adjacent to the residential property. There is an existing seven (7) foot high wooden fence along this property line and the proposed planting of Italian Cypress and Pencil Holly trees along the fence will provide additional screening and separation between the commercial and residential uses. Currently, the parking lot is not screened from view from the Magazine Street side, and screening is not proposed as a part of this redevelopment project. Therefore, the staff recommends following provisos:

- The applicant shall install a missing street tree along the Magazine Street public rights-of-way adjacent to the site, subject to the review and approval of the Department of Parks and Parkways and the City Planning Commission staff.
- The applicant shall install a continuous landscape hedge at a minimum height of thirty (30) inches along the perimeter of the vehicular use area adjacent to the Magazine Street right-of-way.

Signage

Aside from a single projecting sign indicated on the submitted elevation drawing, no detailed signage plan has been submitted for review. The staff typically recommends that developments reviewed through a conditional use process comply with the signage provisions set forth in the Comprehensive Zoning Ordinance for the underlying zoning district.

- All signage for the project shall comply with standards of **Article 5, Section 5.5.6 Permitted Signs** of the Comprehensive Zoning Ordinance.

Lighting

Exterior lighting indicated on the submitted plans includes decorative lights attached to the building facade facing the parking lot and Magazine Street. No other free standing lights have been shown on the plan. Site lighting shall be included in all subsequent submissions.

- The applicant shall submit a lighting plan that indicates the exact location, type, and height of all proposed exterior lighting, for the review and approval of the staff of the City Planning Commission. All exterior

lighting shall be limited in height to twelve (12) feet and shall not be directed toward any adjacent residential uses.

Other Considerations

In order to further mitigate against potential noise, traffic, litter and the sale of alcoholic beverages for off-site consumption which will be permitted as the use exceeds 5,000 square feet, staff recommends limiting the hours of operation to hours customary to the majority of similar stores within the New Orleans metro area.³

- The hours of operation shall be limited to 7:00 am to 10:00 pm.

Should the conditional use be approved, the staff recommends the following standard proviso to ensure that the development is permitted appropriately by the Department and Safety and Permits in accordance with the requirements of the conditional use.

- The Department of Safety and Permits shall issue no building permits or licenses until final development plans are approved by the City Planning Commission and recorded with the Office of Conveyances. Failure to complete the conditional use process by properly recording plans within a one year time period or failure to request an administrative extension as provided for in **Article 16, Section 16.9.11** of the Comprehensive Zoning Ordinance will void the conditional use approval.

E What is the potential traffic impact? What are the off-street parking and off-street loading requirements? Can they be provided on site, or would a waiver be required?

Traffic

The site is located at the intersection of Louisiana Avenue and Magazine Street, both classified as major streets according to the *Plan for the 21st Century*. Magazine Street is a two lane, two way street with a parking lane on each side. Louisiana Avenue is a four lane, two way street with a neutral ground and a parking lane on each side. Louisiana Avenue provides connection between the Mid-City and the Uptown area, while Magazine Street is a key transportation link between the Central Business District and several historic Uptown neighborhoods, including the Garden District, the Lower Garden District, the Irish Channel and the areas surrounding Tulane University and Audubon Park. The section of Magazine Street adjacent to the site is a neighborhood-oriented commercial corridor that is heavily trafficked by automobiles and pedestrians throughout the day. Other streets adjacent to the site are Camp and Delachaise Streets, both

³ The majority of CVS stores in New Orleans and in the metro area have operating hours from 7:00am to 10:00 pm

minor streets with two lanes of travel in each direction. They both provide on-street parking on both sides of the street. They are developed primarily with low- and medium-density residential uses, and appear to accommodate a moderate level of traffic.

Parking

As noted above, according to **Article 5, Section 5.5.8**, retail stores in the B-1A District are not required to provide off-street parking for the first 5,000 square feet of floor area; one (1) parking space per 200 square feet of additional floor area beyond the first 5,000 square feet is required by **Article 15, Section 15.2.2**. The structure contains 9,165 square feet of area and is required to provide twenty-one (21) off-street parking spaces. There are twenty-five (25) off-street parking spaces on the site, two (2) of which are designated as handicapped parking, thus meeting the stated parking requirement. The applicant is proposing to install bicycle racks at the north-east corner of the site next to the Louisiana Avenue entrance to the site. For safety and convenience reasons, the bicycle parking should be moved closer to the entrance to the store, near the corner of Louisiana Avenue and Magazine Street. Should the application be recommended for approval it should be subject to the following proviso:

- The applicant shall relocate bicycle parking closer to the entrance to the store, near the corner of Louisiana Avenue and Magazine Street.

Loading

Article 15, Section 15.3 requires one (1) off-street loading space for retail uses containing up to 10,000 square feet of area. The project designates one (1) off-street loading space that is smaller than the required 12'x35' space. According to the applicant, the delivery is conducted with smaller trucks, therefore no need for a larger loading zone. The lack of the full size loading zone on the site was grandfathered to the original site which contained a single retail tenant; this grandfathered status however, was lost when the structure was divided into smaller tenant spaces. Therefore, a waiver of the full size loading is required. The staff believes that providing a standard loading space within the existing site located in a dense urban environment may not be feasible. Therefore the staff recommends the following waiver:

- The applicant shall be granted a waiver of **Article 15, Section 15.3.4 Design Standards (for Off-Street Loading)** of the Comprehensive Zoning Ordinance, to permit the loading space of lesser size than the required minimum of twelve (12) feet in width and thirty-five (35) feet in depth.

F. Are there any comments from other agencies, departments or committees?

The proposal was considered by the Planning Advisory Committee at its meeting of February 4, 2015. City Planning Commission staff noted the presence of a loading area that is smaller than what is required by the Comprehensive Zoning Ordinance. The representative of the applicant stated that CVS uses smaller trucks for deliveries, therefore no need for a larger loading zone. The Department of Public Works asked if the project will require any modifications to the existing curb cuts and stated that the proposed bus cover shown on the site plan must be coordinated and approved by the Regional Transit Authority (RTA). The applicant responded that no changes to the curb cuts are being proposed. He further acknowledged that bus stop improvements are subject to RTA approval. The representative of the Department of Property Management, Division of Real Estate and Records stated that property lines are not clearly shown on the site plan and that there may be encroachments of the canopy over the Magazine Street right-of-way, which requires a servitude agreement with the City (see discussion and provisos in Section D of this report). The committee passed a motion of no objection subject to further review by the City Planning Commission and the Department of Property Management, Division of Real Estate and Records.

G. What effects or impacts would the proposed conditional use have on adjacent properties?

When considering noise and other impacts normally associated with retail uses, it is important to note that though the proposed use is much larger than most uses in B-1A Districts, it also occupies a site that is much larger than most sites in the B-1A District. Furthermore, the original use of the site was also a single tenant retail use, a drugstore, which operated for a number of years prior to being replaced with several smaller retailers and a fast food restaurant. While the floor area use of the site would be greater than what is typical in the B-1A District, the floor-area ratio would be normal for the B-1A District. Therefore, the impacts associated with this use should not be greater than the impacts associated with multiple smaller retail uses that previously operated on the site, and were permitted by right.

Staff believes that the proposed conversion of a multi-tenant commercial strip into a single tenant retail use will not generate larger traffic volume, demand for parking, and increase in litter than what was previously generated by the multi-tenant site. As there is no drive-thru component in the proposed reuse of the site, no traffic increase is expected at the site. The off-street parking located on site should accommodate the demand for parking that the use generates. Additional recommended provisos regarding landscaping and screening of the vehicular use areas, the hours of operation and litter management should minimize any potential negative impacts of the larger retail use and the sale of alcoholic beverages on the adjacent properties.

III. Are the proposed actions supported by or in conflict with the policies and strategies of the *Plan for the 21st Century*?

The proposed Conditional Use is **consistent with the *Plan for the 21st Century***, commonly known as the Master Plan. “Chapter 14: Land Use Plan” of the Master Plan designates the future land use of the petitioned site as “Mixed-Use Low Density.” The goal, range of uses, and development character for that designation are copied below:

MIXED-USE LOW DENSITY

Goal: Increase neighborhood convenience and walkability within and along edges of neighborhoods with low density residential and neighborhood-serving retail/commercial establishments.

Range of Uses: Low-density single-family, two-family and multi-family residential and neighborhood business; typically businesses in residential scale buildings interspersed with residences. Uses can be combined horizontally or vertically (ground floor retail required in certain areas). Limited light-industrial uses (craft and value added industry and passive warehousing and storage) may be allowed in some areas.

Development Character: Height, mass and density of new development varied depending on surrounding neighborhood character.

The applicant requests a Conditional Use to permit use of an existing retail development over 5,000 sq. ft. by a single retail tenant. The use is **consistent** with the future land use designation of Mixed-Use Low Density which includes neighborhood business uses.

IV. SUMMARY

This is a request for a Conditional Use to re-authorize a single retail tenant within the structure with over 5,000 square feet in floor area in a B-1A Neighborhood Business District. The original use of the site was also a single retail tenant, a drugstore, which operated for a number of years prior to being replaced with several smaller retailers and a fast food restaurant. The applicant is proposing comprehensive modifications to the exterior of the building which include a new roof/parapet line, a new stucco façade, new doors and windows, canopies, attached lighting and other minor architectural detailing. Some additional landscaping and screening has also been proposed. There is no drive-thru component in the proposed reuse of the site.

Staff believes that the proposed conversion of a multi-tenant commercial strip into a single tenant retail use will not generate larger traffic volume, demand for parking, and increase in litter than what was previously generated by the multi-

tenant site. The off-street parking located on site should accommodate the demand for parking that the use generates. Additional recommended provisos regarding landscaping and screening of the vehicular use areas, the hours of operation and litter management should minimize any potential negative impacts of the larger retail use and sale of alcoholic beverages on the adjacent properties.

The request is consistent with the historic commercial use of the site and is consistent with the Master Plan land use designation.

V. PRELIMINARY STAFF RECOMMENDATION⁴

The CPC staff recommends **approval** of Zoning Docket 022-15 subject to one (1) waiver and eleven (11) provisos.

Waivers:

1. The applicant shall be granted a waiver of **Article 15, Section 15.3.4 Design Standards (for Off-Street Loading)** of the Comprehensive Zoning Ordinance, to permit the loading space of lesser size than the required minimum of twelve (12) feet in width and thirty-five (35) feet in depth.

Provisos

1. The applicant shall secure the appropriate rights to utilize City property in connection with any encroachments in accordance with the requirements of the Department of Property Management, Office of Real Estate and Records.
2. The applicant shall revise the canopy design to use simplified canopy supporting brackets.
3. A note on the plan shall indicate a six (6) foot high opaque (wood or brick) fence with locking gates around the perimeter of the dumpster area.
4. The applicant shall provide to the City Planning Commission staff a letter outlining a litter abatement program, approved by the Department of Sanitation, inclusive of the location of refuse storage out of the public right-of-way, the frequency of trash pickup, the clearing of all litter from the adjacent rights-of-way, and the periodic cleaning of the adjacent street rights-of-way, as necessary. The name and phone number of the owner/operator of the establishment shall be kept on file in case of any violation.

⁴ Subject to modification by the City Planning Commission

5. The applicant shall install a missing street tree along the Magazine Street public rights-of-way adjacent to the site, subject to the review and approval of the Department of Parks and Parkways and the City Planning Commission staff.
6. The applicant shall install a continuous landscape hedge at a minimum height of thirty (30) inches along the perimeter of the vehicular use area adjacent to the Magazine Street right-of-way.
7. All signage for the project shall comply with standards of **Article 5, Section 5.5.6 Permitted Signs** of the Comprehensive Zoning Ordinance.
8. The applicant shall submit a lighting plan that indicates the exact location, type, and height of all proposed exterior lighting, for the review and approval of the staff of the City Planning Commission. All exterior lighting shall be limited in height to twelve (12) feet and shall not be directed toward any adjacent residential uses.
9. The hours of operation shall be limited to 7:00 am to 10:00 pm.
10. The applicant shall relocate bicycle parking closer to the entrance to the store, near the corner of Louisiana Avenue and Magazine Street.
11. The Department of Safety and Permits shall issue no building permits or licenses until final development plans are approved by the City Planning Commission and recorded with the Office of Conveyances. Failure to complete the conditional use process by properly recording plans within a one year time period or failure to request an administrative extension as provided for in **Article 16, Section 16.9.11** of the Comprehensive Zoning Ordinance will void the conditional use approval

VI. REASONS FOR RECOMMENDATION

1. The request is to re-authorize a single retail tenant within the structure that originally housed a single retail tenant, a drugstore, which operated for a number of years prior to being replaced with several smaller retailers and a fast food restaurant.
2. The requested use is consistent with the variety of restaurant and retail uses along this stretch of Magazine Street.
3. Off-street parking located on site should accommodate the demand for parking generated by the use and recommended provisos should mitigate against other negative impacts that may result from the use.

VII. Should the applicant desire changes to any recommended waivers or provisos, the applicant is encouraged to bring any proposed alternative language for discussion at the meeting.